IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT: Reber   ATTY. DKT. NO.: HOB-P-04-001

SERIAL NO.: 10/771,890   EXAMINER: Allen

FILING DATE: February 4, 2004   GROUP ART UNIT: 3625

INVENTION: "A SYSTEM AND A METHOD FOR LOCATING AN ITEM OFFERED
           FOR SALE BY A MERCHANT"

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPELLANT'S APPEAL BRIEF TRANSMITTAL LETTER
SIR/MADAM:

Appellant submits herewith Appellant's Appeal Brief in support of the Notice of Appeal filed April 13, 2007. Appellant encloses a check for $250.00 for submission of this Appeal Brief. Appellant authorizes the Patent Office to charge any fees that may be due and owing or to credit any overpayment to Deposit Account No. 50-0595. A duplicate copy of this sheet is enclosed for this purpose.

Respectfully submitted,

_____ (Reg. No. 55,819)
Aaron J. Morrow
Patents+TMS
A Professional Corporation
2849 W. Armitage Ave.
Chicago, IL 60647
Tel: 773/772-6009

1

CERTIFICATE OF MAILING

I hereby certify that this **APPEAL BRIEF with CLAIMS APPENDIX CONTAINING CLAIMS 1-20, EVIDENCE APPENDIX CONTAINING EXHIBITS A, B, C, D, E** and **RELATED PROCEEDINGS APPENDIX, TRANSMITTAL (in duplicate), RETURN RECEIPT POSTCARD, CHECK for $250.00** are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, Alexandria, VA 22313-1450 on June 5, 2007.

Aaron J. Morrow (Reg. No. 55,819)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

APPELLANT: Reber   ATTY. DOCKET NO.: HOB-P-04-001

SERIAL NO.: 10/771,890   GROUP ART UNIT: 3625

DATE FILED: February 4, 2004   EXAMINER: Allen

INVENTION: "A SYSTEM AND A METHOD FOR LOCATING AN ITEM OFFERED
            FOR SALE BY A MERCHANT"

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

SIR/MADAM:

This Appeal Brief is filed in support of the Notice of Appeal
dated April 13, 2007. The Appeal was taken from a Final Rejection
dated March 23, 2007.

I. REAL PARTY IN INTEREST

Hobie Reber is the real party in interest in this Appeal.

II. RELATED APPEALS AND INTERFERENCES

No other appeals or interferences are known to Appellant or
Appellant's legal representative which will directly affect, be
directly affected by, or have a bearing on the Board's decision in
this appeal.

III. STATUS OF CLAIMS

Claims 1-20 are pending in this patent application. A copy of
the claims is appended hereto in the Claims Appendix. Claims 1-20
were finally rejected in an Office Action dated March 23, 2007 and

1

are hereby on appeal. The Final Rejection is appended hereto as Exhibit A of the Evidence Appendix.

IV. STATUS OF AMENDMENTS

All amendments have been entered in this patent application. An Amendment After Final was filed in the U.S. Patent Office on January 16, 2007 and was entered for the purposes of the Appeal.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The present invention provides a system and a method to identify available products offered for sale by a merchant (page 9, lines 8-10). More specifically, the system provides information about the products and/or services offered for sale by the merchant located within a multi-dealer retail establishment (page 9, lines 10-14). Further, the system may be accessed from any computer terminal which affords network accessible capabilities (page 9, lines 14-17). Still further, the system and method accesses an inventory of a merchant to locate an availability and/or a price of the product and/or service offered for sale by the merchant (page 9, lines 19-22).

Independent Claim 1 defines a system 10 for determining a location of an item offered for sale by a merchant in a multi-dealer retail establishment (page 9, lines 23-26). Claim 1 requires a computer network and a database 14 associated with the computer network (page 12, lines 30-33). Figure 1 illustrates a system 10 having a database 14 that may be accessed

2

through a website 18 (page 10, lines 23-25).

Additionally, Claim 1 requires that the database 14 stores merchant information associated with merchants who are located within the multi-dealer retail establishment (page 12, lines 15-17). The merchant information includes the location of the merchant within the multi-dealer retail establishment (page 13, lines 16 and 17). The merchant may create a product list on the database 18 via step 40 and/or store the product list in the database 14 via step 46 (page 14, lines 16-18).

Claim 1 further requires a computer terminal with network accessible capabilities (page 13, lines 5-7). The computer terminal may access the database 14 and the accompanying merchant and product information (page 13, line 33 and page 14, lines 1-5). The user may access the website 18 of the system 10 from the computer terminal having the network accessible capabilities with the user interface 22 and/or may log onto the website 18 via step 72 (page 17, lines 6-9).

A merchant may create a merchant account 34 via the website 18 and input merchant information, which may include the location of the merchant within a multi-dealer retail establishment (page 13, lines 13-18). After creating a merchant account 34, the merchant may create a product list 40 and enter pictures and/or descriptions of products 44 before storing information in the database 14 (page 14 lines 16-18).

3

Moreover, Claim 1 requires that the computer terminal is remote with respect to the database and determines the location of the item in the multi-dealer retail establishment by searching the item information in the database wherein the item information is associated with the location of the merchant in the multi-dealer retail establishment (page 3, lines 25-28). A user or merchant may remotely access the website 18 and the database 14 from a computer terminal, such as, for example, a laptop computer, a personal digital assistant, a cellular telephone and/or the like (page 12, lines 19-22).

Independent Claim 8 requires a method for locating an item offered for sale by a merchant in a multi-dealer retail establishment by a user wherein the merchant has a location within the multi-dealer retail establishment (page 3, lines 29-33 and page 4, lines 1-2). Claim 8 requires the steps of providing a computer network and providing a database connected to the computer network. Figure 1 illustrates a system 10 having a database 14 that may be accessed through a website 18 (page 10, lines 23-25). A user may access the website 18 of system 10 from the computer terminal having the network accessible capabilities with the user interface 22 and/or may log on to the website 18 via step 72 (page 17, lines 6-9).

Additionally, Claim 8 requires that the database stores merchant information associated with the merchant and further

4

wherein the merchant information has the location of the merchant within the multi-dealer retail establishment (page 4, lines 28-33). Further, Claim 8 requires inputting a product list of the merchant into the merchant information in the database wherein the product list has item information associated with items offered for sale by the merchant (page 11, lines 7 and 8). A merchant may create a merchant account 34 via the website 18 and input merchant information which may include the location of the merchant within a multi-dealer retail establishment (page 13, lines 13-18). After creating a merchant account 34, the merchant may also create a product list 40 and enter pictures and/or descriptions of products 44 before storing information in the database 14 (page 14 lines 16-26).

Still further, Claim 8 requires that the method provide a terminal in the multi-dealer retail establishment wherein the terminal accesses the database for displaying the merchant information of the merchant in the database via the computer network (page 3, lines 25-33). Moreover, Claim 8 requires the step of searching the product list in the merchant information based on the item information associated with the item (page 5, lines 8-10). A user may search the system 10 from a computer terminal local to the multi-dealer retail establishment (page 6, lines 29-32). The system 10 may also include a user interface 22 which may allow the user to access the website 18 and/or the database 14 (page 10,

5

lines 23-25). The user may search the database 14 by entering item or merchant information on the website 18 (page 18, lines 3-5). The website 18 may display item or merchant information from the database 14 corresponding to the user's query (page 18, lines 5-11). Further, a list of products in the database 14 which match the search criteria may be displayed by the website 18 on the computer terminal via step 92 (page 19, lines 24-26).

Furthermore, Claim 8 requires that the method determine the location of the merchant in the multi-dealer retail establishment based on the merchant information associated with the item information in the product list (page 5, lines 10-13). Figure 4 illustrates a flowchart 120 of a method for a user to search the product lists of merchants and/or item information stored in the database 14 of the system 10 (page 21, lines 12-15). A user may access a map of the multi-dealer retail establishment in the database 14 and view the location of the item and the merchant offering the selected item for sale via step 102 (page 20, lines 19-22). Moreover, the user may obtain directions from the location of the user to the location of the merchant offering the selected item for sale via step 102 (page 20, lines 22-25).

Dependent Claim 2 requires the system of Claim 1 wherein the computer network is the internet (page 4, lines 3 and 4).

Dependent Claim 3 defines a remote server wherein the database 14 is contained on the remote server (page 4, lines 5 and 6).

6

Dependent Claim 4 defines a means for modifying the merchant information in the database 14 (page 4, lines 9 and 10.

Dependent Claim 5 defines a password associated with the merchant for accessing the merchant information in the database 14 (page 13, lines 28-33 and page 14, lines 1-2).

Dependent Claim 6 defines an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map (page 20, lines 15-22).

Dependent Claim 7 defines a means for inputting an image associated with the item into the item information in the database 14 and a means for accessing the image associated with the item in the database 14 from the computer terminal (page 14, lines 24-26 and page 23, lines 18-22).

Dependent Claim 9 requires the method of Claim 8 wherein the computer network is the internet (page 4, lines 3 and 4).

Dependent Claim 10 requires the method of Claim 8 wherein the access to the database 14 is wireless (page 5, lines 16 and 17).

Dependent Claim 11 defines providing a remote server and storing the database 14 on the remote server (page 4, lines 5 and 6).

Dependent Claim 12 defines providing a second access to the database 14 for modifying the merchant information in the database 14 via the computer network (page 5, lines 21-24).

Dependent Claim 13 requires the method of Claim 8 wherein the access is from a remote computer terminal with respect to the database 14 (page 5, lines 21-24).

Dependent Claim 14 defines providing a password for accessing the merchant information in the database 14 via the computer system (page 13, lines 28-33 and page 14, lines 1-2).

Dependent Claim 15 requires the method of Claim 8 wherein the terminal accesses the database 14 is via a computer website on the computer network wherein the computer website is remote with respect to the database 14 (page 12, lines 15-29).

Dependent Claim 16 defines displaying the location of the merchant in the multi-dealer retail establishment on a map wherein the map is associated with the multi-dealer retail establishment (page 20, lines 15-22).

Dependent Claim 17 defines downloading an image into the item information of the item in the database 14 via the computer network wherein the image is associated with the item (page 14, lines 24-26 and page 23, lines 18-22).

Dependent Claim 18 requires the method of Claim 8 wherein the item information includes geographical information associated with the item for sale by the merchant (page 6, lines 9-11).

Dependent Claim 19 requires inputting user information into the database 14 via the computer system wherein the user information is associated with the user searching the product list

in the merchant information based on the user information (page 10, lines 23-32).

Dependent Claim 20 requires inputting an inventory of the merchant into the database 14 via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system (page 16, lines 3-24).

VI. <u>GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL</u>

1.   Would Claims 1-3, 8-11, 13, 15 and 18 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention over *Chang et al.* (U.S. Patent Publication No. 2003/0110078) in view of *Russell* (U.S. Patent Publication No. 2002/0083061)?   See *Chang et al.* attached as Exhibit B of the Evidence Appendix.   See *Russell* attached as Exhibit C of the Evidence Appendix.

2.   Would Claims 4, 5, 7, 12, 14, 17, 19 and 20 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention over *Chang et al.* in view of *Russell* as applied to Claims 1 and 8, and further in view of *Pugliese III et al.* (U.S. Patent Publication No. 2001/0044751). See *Pugliese III et al.* attached as Exhibit D of the Evidence Appendix.

3. Would Claims 6 and 16 have been obvious under 35 U.S.C. §103(a) to one having ordinary skill in the art at the time of Appellant's invention over *Chang* in view of *Russell* and in further view of Crossman, Craig, ("Look, Listen and Interact with Multimedia." *Austin American Statesman* March 21, 1994, Page D6; hereinafter "*892u*")? See *892u* attached as Exhibit E of the Evidence Appendix.

VII. **ARGUMENT**

A. **THE CITED REFERENCES AND REJECTIONS OF CLAIMS 1-3, 8-11, 13, 15, and 18 UNDER 35 U.S.C. §103(a)**

Independent Claim 1 and dependent Claims 2, 3, 8-11, 13, 15 and 18 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Chang et al.* in view of *Russell*.

The Examiner stated:

> Regarding Claim 1, *Chang* teaches a system for locating and determining an availability and location of an item offered for sale in a shopping mall comprising: providing a computer network; a database associated with the network (; wherein the merchant information is associated with the location of each one of the plurality of merchants wherein the merchants are located only within the interior space of the multi dealer retail establishment; wherein the item information is associated with a description of the item and a price of the item wherein each one of the plurality of items is only locatable within the interior space of the multi dealer retail establishment; a computer terminal located in the multi-dealer retail establishment and wherein the computer terminal connects the computer to the computer network and enables access to item information and merchant information and further wherein the computer terminal is remote with respect to the

10

database and determines the location of the item in the multi-dealer retail establishment by searching the item information in the database wherein the item information is associated with the location of the merchant in the multi-dealer retail establishment.

(See pages 4 and 5 of Final Rejection dated March 23, 2007).

B. CLAIMS 1-3, 8-11, 13, 15, and 18 WOULD NOT HAVE BEEN OBVIOUS UNDER 35 U.S.C. §103(a) TO ONE OF ORDINARY SKILL IN THE ART AT THE TIME OF APPELLANT'S INVENTION IN VIEW OF *CHANG ET AL.* AND *RUSSELL*, TAKEN SINGLY OR IN COMBINATION

With respect to the rejection of Claims 1-3, 8-11, 13, 15, and 18 under 35 U.S.C. §103(a) as being unpatentable over *Chang et. al.* in view of *Russell*, Appellant respectfully submits that the claims distinctly define the present invention from *Chang et al.* and *Russell,* taken singly or in combination, for the reasons that follow.

Independent Claim 1 requires a multi-dealer retail establishment that is defined by walls. Independent Claim 1 further requires a means for inputting merchant information that covers merchant location within the multi-dealer retail establishment and item information that covers the description and the price of the item for sale. Independent Claim 1 further requires that the merchant and item information includes merchants and items that are only located within the multi-dealer retail establishment.

Independent Claim 1 further requires a computer terminal which is located within the multi-dealer retail establishment.

11

Independent Claim 1 further requires a database that is located separate from the computer terminal and contains the merchant and item information drawn from the plurality of merchants that are located within the interior space of the multi-dealer retail establishment. Independent Claim 1 further requires that the item information include the location of the item and the price of the item. Moreover, independent Claim 1 requires that the computer terminal may access the merchant and item information by searching through the database.

Chang et al. merely teach a method for facilitating shopping by broadcasting shopping information to a broadcast receiver. The user creates a command using a remote control device and product data is subsequently displayed on a shopping computer ([0008], lines 1-3). The shopping computer can further include information on the product's price and physical location within a store ([0010], lines 4-7). Product information can be downloaded to portable memory media via the shopping computer and inserted into an information kiosk at a shopping center to determine product location and price ([0025], lines 3-8).

On page 5 of the Final Rejection, the Examiner notes that *Chang et al.* lack an explicit teaching of a means for inputting merchant information and a means for inputting item information. However, *Russell* merely teaches a method for providing searchable electronic databases for use in tradeshows (abstract, lines 1-2).

12

Computer systems may be set up at a tradeshow for uses to search product information and obtain a copy of the search result ([0010], lines 8-10). Information is collected prior to the tradeshow or uploaded to a website and is then electronically complied into a database, preferably on CD-ROM or uploaded to a website ([0009] lines 7-9 and 12-15).

Nowhere do *Chang et al.* and *Russell*, taken singly or in combination, teach or suggest a multi-dealer retail establishment that is defined by walls as required by independent Claim 1. Further, nowhere do *Chang et al.* and *Russell*, taken singly or in combination, teach or suggest a means for inputting merchant and item information that covers merchants in a multi-dealer retail establishment defined by walls and an interior space wherein the availability and the location of the item are determined only within the interior space of the multi-dealer retail establishment, as required by independent Claim 1. Still further, nowhere do *Chang et al.* and *Russell*, taken singly or in combination, teach or suggest a computer terminal located within a multi-dealer retail establishment defined by walls and an interior space that allows a user to search for items for sale within the multi-dealer retail establishment, as required by independent Claim 1. Moreover, nowhere do *Chang et al.* and *Russell*, taken singly or in combination, teach or suggest a computer terminal that may access a separately-located database that contains merchant and item

information covering merchants and items located within a multi-dealer retail establishment, as required by independent Claim 1.

Moreover, a person of ordinary skill in the art at the time of Appellant's invention would never have been motivated to combine *Chang et al.* and *Russell* in the manner suggested by the Examiner in formulating the rejection under 35 U.S.C. §103(a). *Chang et al.* merely teach a method for facilitating shopping by broadcasting shopping information to a broadcast receiver and *Russell* merely teaches a method for providing searchable electronic databases for use in tradeshows, whereas Appellant's invention teaches a system to input merchant and item information into a computer terminal wherein the merchant and item information only includes merchants and items within the interior space of a multi-dealer retail establishment. It is submitted that the question under §103(a) is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all of the teachings of the reference in its entirety, would have been obvious to one of ordinary skill in the art at the time the invention was made.

14

<u>Connell v. Sears, Roebuck & Co.</u>, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

With the analysis of the deficiencies of *Chang et al.* and *Russell*, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Chang et al.* with *Russell* to produce the claimed invention. *Chang et al.* teach a system and method for broadcast advertising in the field of advertising and *Russell* teaches a method for providing searchable electronic databases in the field of tradeshows and similar events. *Prima facie* obviousness has not been established by the Examiner as required under 35 U.S.C. §103(a). Therefore, Appellant submits that the rejection of independent Claim 1 under 35 U.S.C. §103(a) is improper and should be reversed.

Independent Claim 8 requires a multi-dealer retail establishment that is defined by walls and contains items for sale only within the interior space of the multi-dealer retail establishment. Independent Claim 8 further requires a database connected to a computer network that contains merchant information including the location of only merchants located within the interior space of the multi-dealer retail establishment. Independent Claim 8 further requires inputting the merchants' product lists into the database wherein the product lists only

15

cover items that are for sale within the interior space of the multi-dealer retail establishment.

Independent Claim 8 further requires a terminal that is only located within the interior space of the multi-dealer retail establishment and may display the merchant and item information contained in the database. Moreover, independent Claim 8 requires that a user may search merchant and item information from the database via the terminal wherein the merchant and item information is drawn only from merchants and items within the interior space of the multi-dealer retail establishment.

Chang et al. merely teach a method for facilitating shopping by broadcasting shopping information to a broadcast receiver. The user creates a command using a remote control device and product data is subsequently displayed on a shopping computer ([0008], lines 1-3). The shopping computer can further include information on the product's price and physical location within a store ([0010], lines 4-7). Product information can be downloaded to portable memory media via the shopping computer and inserted into an information kiosk at a shopping center to determine product location and price ([0025], lines 3-8).

On page 5 of the Final Rejection, the Examiner notes that *Chang et al.* lack an explicit teaching of inputting a product list of the merchant into the merchant information in the database. However, *Russell* merely teaches a method for providing searchable

16

electronic databases for use in tradeshows (abstract, lines 1-2).
Computer systems may be set up at a tradeshow for uses to search
product information and obtain a copy of the search result ([0010],
lines 8-10). Information is collected prior to the tradeshow or
uploaded to a website and is then electronically complied into a
database, preferably on CD-ROM or uploaded to a website ([0009],
lines 7-9 and 12-15).

Nowhere do *Chang et al.* and *Russell*, taken singly or in
combination, teach or suggest a multi-dealer retail establishment
that is defined by walls as required by independent Claim 8.
Further, nowhere do *Chang et al.* and *Russell*, taken singly or in
combination, teach or suggest a means for inputting merchant and
item information wherein the availability and the location of the
merchants and items are determined only within the interior space
of the multi-dealer retail establishment, as required by
independent Claim 8. Still further, nowhere do *Chang et al.* and
Russell, taken singly or in combination, teach or suggest providing
a computer terminal located within the interior walls a multi-
dealer retail establishment that allows a user to search for items
for sale within the multi-dealer retail establishment, as required
by independent Claim 8. Moreover, nowhere do *Chang et al.* and
Russell, taken singly or in combination, teach or suggest providing
a computer terminal that may access a database that contains
merchant and item information covering merchants and items located

17

within the interior space of a multi-dealer retail establishment, as required by independent Claim 8.

Moreover, a person of ordinary skill in the art at the time of Appellant's invention would never have been motivated to combine *Chang et al.* and *Russell* in the manner suggested by the Examiner in formulating the rejection under 35 U.S.C. §103(a). *Chang et al.* merely teach a method for facilitating shopping by broadcasting shopping information to a broadcast receiver and *Russell* merely teaches a method for providing searchable electronic databases for use in tradeshows, whereas Appellant's invention teaches a system to input merchant and item information into a computer terminal wherein the merchant and item information only includes merchants and items within the interior space of a multi-dealer retail establishment. It is submitted that the question under §103(a) is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all of the teachings of the reference in its entirety, would have been obvious to one of ordinary skill in the art at the time the invention was made.

Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

With the analysis of the deficiencies of *Chang et al.* and *Russell*, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to modify *Chang et al.* and *Russell* to produce the claimed invention. *Chang et al.* teach a system and method for broadcast advertising in the field of advertising and *Russell* teaches a method for providing searchable electronic databases in the field of tradeshows and similar events. *Prima facie* obviousness has not been established by the Examiner as required under 35 U.S.C. §103(a). Therefore, Appellant submits that the rejection of independent Claim 8 under 35 U.S.C. §103(a) is improper and should be reversed.

Dependent Claim 2 requires that the computer network is the internet wherein the database associated with the computer network holds merchant and item information wherein the merchants and items are only located within the interior walls of a multi-dealer retail establishment. On page 7 of the Final Rejection, the Examiner alleges that *Chang et al.* in view of *Russell* teach that the computer network is the internet. However, *Chang et al.* merely teach that information can be retrieved from an internet database ([0023], lines 6 and 7) and *Russell* merely teaches that the collected information can be uploaded on a web page ([0009], lines

12-14). Therefore, nowhere do *Chang et al.* nor *Russell*, taken singly or in combination, teach or suggest that the computer network is the internet wherein the database associated with the computer network holds merchant and item information wherein the merchants and items are only located within the interior walls of a multi-dealer retail establishment, as required by dependent Claim 2.

Dependent Claim 3 requires a remote server wherein the database is contained on the remote server and further wherein the database holds merchant and item information wherein the merchants and items are only located within the interior walls of a multi-dealer retail establishment. On page 7 of the Final Rejection, the Examiner alleges that *Russell* teaches a remote server for maintaining the database and a website for access to the database. However, *Russell* merely teaches that the database may be electronically stored on a CD, computer hard drive, PDA, or uploaded on a webpage ([0007], lines 14-17). Therefore, nowhere does *Russell* teach or suggest a remote server wherein the database is stored on the remote server and further wherein the database holds merchant and item information wherein the merchants and items are only located within the interior walls of a multi-dealer retail establishment, as required by dependent Claim 3.

Dependent Claim 9 requires that the computer network is the internet wherein the database associated with the computer network

holds merchant and item information wherein the merchants and items are only located within the interior walls of a multi-dealer retail establishment. On page 7 of the Final Rejection, the Examiner alleges that *Chang et al.* in view of *Russell* teach that the computer network is the internet. However, *Chang et al.* merely teach that information can be retrieved from an internet database ([0023], lines 6 and 7) and *Russell* merely teaches that the collected information can be uploaded on a web page ([0009], lines 12-14). Therefore, nowhere does *Chang et al.* nor *Russell*, taken singly or in combination, teach or suggest that the computer network is the internet wherein the database associated with the computer network holds merchant and item information wherein the merchants and items are only located within the interior walls of a multi-dealer retail establishment, as required by dependent Claim 9.

Dependent Claim 10 requires that the access to the database is wireless wherein the database contains merchant and item information covering items for sale by merchants within the interior space of a multi-dealer retail establishment. On page 7 of the Final Rejection, the Examiner alleges that *Russell* teaches a database that may be accessed on a wireless network. While *Russell* teaches that the database may be accessed wirelessly ([0013] lines 6 and 7), nowhere does *Russell* teach that the database contains merchant and item information covering items for

sale by merchants within the interior space of a multi-dealer retail establishment, as required by dependent Claim 10.

Dependent Claim 11 requires providing a remote server and storing the database on the remote server wherein the database contains merchant and item information covering items for sale by merchants within the interior space of a multi-dealer retail establishment. On page 7 of the Final Rejection, the Examiner alleges that *Russell* teaches a remote server for maintaining the database and a website for access to the database. However, *Russell* merely teaches that the database may be electronically stored on a CD, computer hard drive, PDA, or uploaded on a webpage wherein the database includes information relating to a tradeshow ([0007], lines 14-17 and [0009], lines 1-3). Therefore, nowhere does *Russell* teach or suggest a remote server wherein the database is stored on the remote server wherein the database contains merchant and item information covering items for sale by merchants within the interior space of a multi-dealer retail establishment, as required by dependent Claim 11.

Dependent Claim 13 requires an access from a remote computer terminal with respect to the database wherein the database contains merchant and item information covering items for sale by merchants within the interior space of a multi-dealer retail establishment. On page 11 of the Final Rejection, the Examiner alleges that *Chang et al.* in view of *Russell* teach that the first access is from a

remote computer terminal with respect to the database. However, *Chang et al.* merely teach a remote shopping computer that receives information on product data to which shippers indicate interest([0007], lines 1-8) and *Russell* merely teaches that "computer systems may be provided at the tradeshow for users to perform a search on the database and obtain a copy of the search result" ([0010], lines 9-11). Therefore, nowhere do *Chang et al.* or *Russell*, taken singly or in combination, teach or suggest an access from a remote computer terminal with respect to the database wherein the database contains merchant and item information covering items for sale by merchants within the interior space of a multi-dealer retail establishment, as required by dependent Claim 13.

Dependent Claim 15 requires that the terminal accesses the database via a computer website on the computer network wherein the computer website is remote with respect to the database wherein the database contains merchant and item information covering items for sale by merchants within the interior space of a multi-dealer retail establishment. On page 11 of the Final Rejection, the Examiner alleges that *Chang et al.* in view of *Russell* teach a computer website providing access to the database wherein the computer website is remote with respect to the database. However, *Russell* merely teaches that a "user may use the computer system or wireless network to access the web page" that contains the database

([0012], lines 1, 2 and 7-9). Therefore, nowhere do *Chang et al.* or *Russell*, taken singly or in combination, teach or suggest that the terminal accesses the database via a computer website on the computer network wherein the computer website is remote with respect to the database wherein the database contains merchant and item information covering items for sale by merchants within the interior space of a multi-dealer retail establishment, as required by dependent Claim 15.

Dependent Claim 18 requires that the item information includes geographical information associated with the item for sale by the merchant wherein the geographical information only covers items for sale by merchants within the interior space of a multi-dealer retail establishment. On page 11 of the Final Rejection, the Examiner alleges that *Chang et al.* in view of *Russell* teach that item information includes geographical information associated with the item for sale by the merchant. However, *Chang et al.* merely teach that users can input portable memory media into a shopping computer which then determines the stores in which the items contained on the portable memory media can be found ([0025], lines 1-10). Therefore, nowhere do *Chang et al.* or *Russell*, taken singly or in combination, teach or suggest that the item information includes geographical information associated with the item for sale by the merchant wherein the geographical information only covers

24

items for sale by merchants within the interior space of a multi-dealer retail establishment, as required by dependent Claim 18.

Moreover, a person of ordinary skill in the art at the time of Appellant's invention would never have been motivated to combine *Chang et al.* with *Russell* in the manner suggested by the Examiner in formulating the rejection under 35 U.S.C. §103(a). *Chang et al.* merely teach a method for facilitating shopping by broadcasting shopping information to a broadcast receiver and *Russell* merely teaches a method for providing searchable electronic databases for use in tradeshows, whereas Appellant's invention teaches a system to input merchant and item information into a computer terminal wherein the merchant and item information include only merchants and items available within the interior space of a multi-dealer retail establishment. It is submitted that the question under §103(a) is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all of the teachings of the reference in its entirety, would have been obvious to one of ordinary skill in the art at the time the invention was made.

<u>Connell v. Sears, Roebuck & Co.</u>, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

With the analysis of the deficiencies of *Chang et al.* and *Russell*, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Chang et al.* with *Russell* to produce the claimed invention. *Chang et al.* teach a system and method for broadcast advertising in the field of advertising and *Russell* teaches a method for providing searchable electronic databases in the field of tradeshows and similar events. Therefore, *prima facie* obviousness has not been established by the Examiner as required under 35 U.S.C. §103(a).

Dependent Claims 2, 3, 9-11, 13, 15 and 18 are further believed allowable over the references of record for the same reasons set forth above with respect to independent Claims 1 and 8. Dependent Claims 2, 3, 9-11, 13, 15 and 18 set forth additional novel elements of Appellant's system. Therefore, Appellant submits that the rejection of dependent Claims 2, 3, 9-11, 13, 15 and 18 under 35 U.S.C. §103(a) is improper and should be reversed.

C. THE CITED REFERENCES AND REJECTIONS OF CLAIMS 4, 5, 7, 12, 14, 17, 19 and 20 UNDER 35 U.S.C. §103(a)

Dependent Claims 4, 5, 7, 12, 14, 17, 19 and 20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Chang et al.* in view of *Russell* as applied to Claims 1 and 8 above, and further in view of *Pugliese III et al.*

The Examiner stated:

Regarding Claim 4, ... *Pugliese* teaches a mall kiosk available to shoppers (see at least: abstract). *Pugliese* further teaches a merchant or "merchant administrator" with the ability to logon and update the merchant information in the database, and thereby teaches means for modifying the merchant information.

Regarding Claims 5 and 14, ... *Pugliese* teaches a registered merchant or merchant administrator logging into the ShopLive system and updating merchant information (see at least: abstract, 0275, 0277, 0334-0336, 0340-0341, Fig. 21). *Pugliese* further teaches wherein the merchant may receive their password via email when using the lost password request function (see at least: 0332, Fig. 20 #100 and #106).

Regarding Claim 7, ... *Pugliese* teaches a means for inputting an image associated with the item information in database and a means for accessing the image associated with the item in the database from the computer terminal (see at least: 0271-0272, 0279, 0368, Fig. 15, claim 14).

Regarding Claim 12, ... *Pugliese* teaches a merchant or "merchant administrator" with the ability to logon and update the merchant information in the database, and thereby teaches providing a second access to the database for modifying the merchant information via the computer network.

Regarding Claim 17, ... *Pugliese* teaches downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item (see at least: 0271-0272, 0279, 0368, Fig. 15).

Regarding Claim 19, ... *Pugliese* teaches inputting user information into the database via the computer system wherein the information is associated with the user and searching the product list in the merchant information based on the user information (see at least: 0013, 0117, 0143, 0177-0179, 0206).

27

Regarding Claim 20, ... *Pugliese* teaches inputting
inventory of the merchant into the database via the
computer system wherein the inventory is associated
with the product list of the merchant and further
wherein the inventory includes the item for sale
and modifying the inventory of the merchant via the
computer system (see at least: 0099, 0126, 0140).

(See pages 12-16 of Final Rejection dated March 23,
2007).

**D. CLAIMS 4, 5, 7, 12, 14, 17, 19 and 20 WOULD NOT HAVE BEEN
OBVIOUS UNDER 35 U.S.C. §103(a) TO ONE OF ORDINARY SKILL IN THE
ART AT THE TIME OF APPELLANT'S INVENTION IN VIEW OF *BRUNSON* AND
RUSSELL, AND IN FURTHER VIEW OF *PUGLIESE III et al.*, TAKEN SINGLY
OR IN COMBINATION**

With respect to the rejection of Claims 4, 5, 7, 12, 14, 17,

19 and 20 under 35 U.S.C. §103(a) as being unpatentable over *Chang*

et al. in view of *Russell* as applied to Claims 1 and 8 above, and

further in view of *Pugliese III et al.*, Appellant respectfully

submits that the claims distinctly define the present invention

from *Chang et al.*, *Russell* and *Pugliese III et al.*, taken singly or

in combination, for the reasons that follow.

Dependent Claim 4 requires a means for modifying the merchant

information in the database wherein the database holds merchant and

item information covering merchants and items that are only located

within the interior walls of a multi-dealer retail establishment.

On page 12 of the Final Rejection, the Examiner admits that *Chang*

et al. in view of *Russell* does not expressly teach a means for

modifying the merchant information in the database via the computer

network and alleges that *Pugliese III et al.* teach a means for

modifying the merchant information. However, although *Pugliese III et al.* teach that a merchant is able to login to the application and update existing products in their respective catalogues (see [0275]), the merchant and the products are not confined to a multi-dealer retail establishment. Therefore, nowhere do *Chang et al.*, *Russell* nor *Pugliese III et al.*, taken singly or in combination, teach or suggest that a means for modifying the merchant information in the database wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment, as required by dependent Claim 4.

Dependent Claim 5 requires a password associated with the merchant for accessing the merchant information in the database wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment. On page 13 of the Final Rejection, the Examiner admits that *Chang et al.* in view of *Russell* does not expressly teach a password associated with the merchant for accessing the merchant information in the database and alleges that *Pugliese III et al.* teach that the merchant may receive their password via email when using the lost password request function. However, *Pugliese III et al.* merely teach that the "lost password processing function processes a request for a lost password from a shopper or merchant and then sends the password via email to the

shopper as requested" ([0332]) and does not explicitly require a password associated with the merchant. Therefore, nowhere do *Chang et al., Russell* nor *Pugliese III et al.,* taken singly or in combination, teach or suggest a password associated with the merchant for accessing the merchant information in the database wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment, as required by Claim 5.

Dependent Claim 7 requires a means for inputting an image associated with the item into the item information in the database and a means for accessing the image associated with the item in the database from the computer terminal wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment. On pages 13 and 14 of the Final Rejection, the Examiner admits that *Chang et al.* in view of *Russell* does not expressly teach a means for inputting an image associated with the item into the item information in the database and a means for accessing the image associated with the item in the database from the computer terminal and alleges that *Pugliese III et al.* teach a means for inputting an image associated with the item into the item information in the database and a means for accessing the image associated with the item in the database from the computer terminal.

However, although *Pugliese III et al.* teach that merchants have "[p]roduct image loading [that] allows products to have images associated with them" ([0279]), the merchants and the products are not confined to the interior space of a multi-dealer retail establishment. Therefore, nowhere do *Chang et al.*, *Russell* nor *Pugliese III et al.*, taken singly or in combination, teach or suggest a means for inputting an image associated with the item into the item information in the database and a means for accessing the image associated with the item in the database from the computer terminal wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment, as required by Claim 7.

Dependent Claim 12 requires providing a second access to the database for modifying the merchant information in the database via the computer network wherein the database contains merchant and item information covering items for sale by merchants within the interior space of a multi-dealer retail establishment. On page 14 of the Final Rejection, the Examiner admits that *Chang et al.* in view of *Russell* does not expressly teach a means for providing a second access to the database for modifying the merchant information in the database via the computer network and alleges that *Pugliese III et al.* teach a means for providing a second

access to the database for modifying the merchant information in the database via the computer network.

However, although *Pugliese III et al.* teach a merchant information system that "manages the registration of merchants, locations and departments" ([0334]), nowhere does *Pugliese III et al.* teach that the merchant information is stored on a database or that the merchant information can be modified via the computer network. Therefore, nowhere do *Chang et al.*, *Russell* nor *Pugliese III et al.*, taken singly or in combination, teach or suggest providing a second access to the database for modifying the merchant information in the database via the computer network wherein the database contains merchant and item information covering items for sale by merchants within the interior space of a multi-dealer retail establishment, as required by Claim 12.

Dependent Claim 14 requires providing a password for accessing the merchant information in the database via the computer system wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment. On page 13 of the Final Rejection, the Examiner admits that *Chang et al.* in view of *Russell* does not expressly teach a password associated with the merchant for accessing the merchant information in the database and alleges that *Pugliese III et al.* teach that the merchant may receive their password via email when using the lost password request function.

However, *Pugliese III et al.* merely teach that the "lost password processing function processes a request for a lost password from a shopper or merchant and then sends the password via email to the shopper as requested" ([0332]) and does not explicitly require a password associated with the merchant. Therefore, nowhere do *Chang et al.*, *Russell* nor *Pugliese III et al.*, taken singly or in combination, teach or suggest providing a password for accessing the merchant information in the database via the computer system wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment, as required by Claim 14.

Dependent Claim 17 requires downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment. On page 15 of the Final Rejection, the Examiner admits that *Chang et al.* in view of *Russell* does not expressly teach downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item and alleges that *Pugliese III et al.* teach downloading an image into the item information of the item in

33

the database via the computer network wherein the image is associated with the item.

However, although *Pugliese III et al.* teach that merchants "have the ability to upload true-color images associated with the products in their catalogs" ([0279]), the merchants and the products are not confined to the interior space of a multi-dealer retail establishment. Therefore, nowhere do *Chang et al.*, *Russell* nor *Pugliese III et al.,* taken singly or in combination, teach or suggest downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment, as required by Claim 17.

Dependent Claim 19 requires inputting user information into the database via the computer system wherein the user information is associated with the user and searching the product list in the merchant information based on the user information wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment. On pages 15 and 16 of the Final Rejection, the Examiner admits that *Chang et al.* in view of *Russell* does not expressly teach inputting user information into the database via the computer system wherein the user information is

associated with the user and searching the product list in the merchant information based on the user information and alleges that *Pugliese III et al.* teach inputting user information into the database via the computer system wherein the user information is associated with the user and searching the product list in the merchant information based on the user information.

However, *Pugliese III et al.* merely teach a manage personal folder function that stores user information and allows users to "maintain a list of products and merchants of interest to themselves" ([0206]), and does not teach a system to input the user information into the database via the computer network. Therefore, nowhere do *Chang et al.*, *Russell* nor *Pugliese III et al.*, taken singly or in combination, teach or suggest inputting user information into the database via the computer system wherein the user information is associated with the user and searching the product list in the merchant information based on the user information wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment, as required by Claim 19.

Dependent Claim 20 requires inputting an inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and

35

modifying the inventory of the merchant via the computer system wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment. On page 16 of the Final Rejection, the Examiner admits that *Chang et al.* in view of *Russell* does not expressly teach inputting an inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system and alleges that *Pugliese III et al.* teach inputting an inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system.

However, *Pugliese III et al.* merely teach an external inventory system and an inventory access system that provides the ability to query catalog inventory availability at a store location level ([0126]), and does not teach a system to input the inventory of the merchant into the database via the computer system. Therefore, nowhere do *Chang et al.*, *Russell* nor *Pugliese III et al.*, taken singly or in combination, teach or suggest inputting an inventory of the merchant into the database via the computer system

wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale and modifying the inventory of the merchant via the computer system wherein the database holds merchant and item information covering merchants and items that are only located within the interior walls of a multi-dealer retail establishment, as required by Claim 20.

Moreover, a person of ordinary skill in the art at the time of Appellant's invention would never have been motivated to combine *Chang et al., Russell* and *Pugliese III et al.* in the manner suggested by the Examiner in formulating the rejection under 35 U.S.C. §103(a). *Chang et al.* merely teach a method for facilitating shopping by broadcasting shopping information to a broadcast receiver, *Russell* merely teaches a method for providing searchable electronic databases for use in tradeshows and *Pugliese III et al.* merely teach a shopping system to aid shoppers locate and determine the availability of products contained anywhere, whereas Appellant's invention teaches a system to input merchant and item information into a computer terminal wherein the merchant and item information only includes merchants and items within the interior space of a multi-dealer retail establishment. It is submitted that the question under §103(a) is whether the totality of the art would collectively suggest the claimed invention to one

of ordinary skill in this art. <u>In re Simon</u>, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all of the teachings of the reference in its entirety, would have been obvious to one of ordinary skill in the art at the time the invention was made. <u>Connell v. Sears, Roebuck & Co.</u>, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

With the analysis of the deficiencies of *Chang et al.*, *Russell* and *Pugliese III et al.*, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Chang et al.*, *Russell* and *Pugliese III et al.* to produce the claimed invention. *Chang et al.* teach a system and method for broadcast advertising in the field of advertising, *Russell* teaches a method for providing searchable electronic databases in the field of tradeshows and similar events and *Pugliese III et al.* teach a shopping system to help shoppers locate products over a shopping network. Therefore, *prima facie* obviousness has not been established by the Examiner as required under 35 U.S.C. §103(a).

Dependent Claims 4, 5, 7, 12, 14, 17, 19 and 20 are further believed allowable over the references of record for the same reasons set forth above with respect to independent Claims 1 and 8. Dependent Claims 4, 5, 7, 12, 14, 17, 19 and 20 set forth additional novel elements of Appellant's system. Therefore, Appellant submits that the rejection of dependent Claims 4, 5, 7, 12, 14, 17, 19 and 20 under 35 U.S.C. §103(a) is improper and should be reversed.

E. THE CITED REFERENCES AND REJECTIONS OF CLAIMS 6 and 16 UNDER 35 U.S.C. §103(a)

Dependent Claims 6 and 16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over *Chang et al.* in view of *Russell* as applied to Claims 1 and 8, and further in view of *892u*.

The Examiner stated:

> Regarding Claims 6 and 16, *Chang et al.* in view of *Russell* teaches locating an item in a multi retailer establishment. *Russell* further teaches how providing a map can be advantageous for shoppers to locate vendors and items. ... *892u* teaches a mall kiosk equipped with a touch screen monitor. *892u* further teaches a window on the monitor of the mall kiosk that provides a sales assistant for providing the location of a desired product and an animated (i.e. electronic map) on the touch screen showing current location and how to get to the store containing desired product.
>
> (See page 18 of Final Rejection dated March 23, 2007).

F. CLAIMS 6 and 16 WOULD NOT HAVE BEEN OBVIOUS UNDER 35 U.S.C. §103(a) TO ONE OF ORDINARY SKILL IN THE ART AT THE TIME OF APPELLANT'S INVENTION IN VIEW OF *CHANG ET AL.*, *RUSSELL* and *892u*, <u>TAKEN SINGLY OR IN COMBINATION</u>

With respect to the rejection of Claims 6 and 16 under 35 U.S.C. §103(a) as being unpatentable over *Chang et al.* in view of *Russell* as applied to claims 1 and 8, and in further view of *892u*, Appellant respectfully submits that the claims distinctly define the present invention from *Chang et al.*, *Russell* and *892u*, taken singly or in combination, for the reasons that follow.

Dependent Claim 6 requires an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map wherein the map displays merchants located only within the interior walls of a multi-dealer retail establishment. On page 18 of the Final Rejection, the Examiner admits that *Chang et al.* in view of *Russell* does not expressly teach an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map and alleges that *892u* teach an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map.

However, *892u* merely teaches a kiosk at a mall that may display an animated map that shows a shopper's location and how to get to a store, but does not teach a merchant's location associated

with items for sale by that merchant. Therefore, nowhere do *Chang et al.*, *Russell* nor *892u,* taken singly or in combination, teach or suggest an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map wherein the map displays merchants located only within the interior walls of a multi-dealer retail establishment, as required by Claim 6.

Dependent Claim 16 requires displaying the location of the merchant in the multi-dealer retail establishment on a map wherein the map is associated with the multi-dealer retail establishment and further wherein the map displays merchants located only within the interior walls of a multi-dealer retail establishment. On page 18 of the Final Rejection, the Examiner admits that *Chang et al.* in view of *Russell* does not expressly teach an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map and alleges that *892u* teach an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map.

However, *892u* merely teaches a kiosk at a mall that may display an animated map that shows a shopper's location and how to get to a store, but does not teach a merchant's location associated with items for sale by that merchant. Therefore, nowhere do *Chang*

et al., Russell nor *892u,* taken singly or in combination, teach or suggest displaying the location of the merchant in the multi-dealer retail establishment on a map wherein the map is associated with the multi-dealer retail establishment and further wherein the map displays merchants located only within the interior walls of a multi-dealer retail establishment, as required by Claim 16.

Moreover, a person of ordinary skill in the art at the time of Appellant's invention would never have been motivated to combine *Chang et al., Russell* and *892u* in the manner suggested by the Examiner in formulating the rejection under 35 U.S.C. §103(a). *Chang et al.* merely teach a method for facilitating shopping by broadcasting shopping information to a broadcast receiver, *Russell* merely teaches a method for providing searchable electronic databases for use in tradeshows and *892u* merely teaches a method for incorporating interactive multimedia into everyday life, whereas Appellant's invention teaches a system to input merchant and item information into a computer terminal wherein the merchant and item information only includes merchants and items within the interior space of a multi-dealer retail establishment. It is submitted that the question under §103(a) is whether the totality of the art would collectively suggest the claimed invention to one of ordinary skill in this art. In re Simon, 461 F.2d 1387, 174 USPQ 114 (CCPA 1972).

That elements, even distinguishing elements, are disclosed in the art is alone insufficient. It is common to find elements somewhere in the art. Moreover, most if not all elements perform their ordained and expected functions. The test is whether the invention as a whole, in light of all of the teachings of the reference in its entirety, would have been obvious to one of ordinary skill in the art at the time the invention was made. Connell v. Sears, Roebuck & Co., 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983).

With the analysis of the deficiencies of *Chang et al., Russell* and *892u*, as enumerated above, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Chang et al., Russell* and *892u* to produce the claimed invention. *Chang et al.* teach a system and method for broadcast advertising in the field of advertising, *Russell* teaches a method for providing searchable electronic databases in the field of tradeshows and similar events and *892u* teaches a method for interactive multimedia in the field of multimedia. Therefore, *prima facie* obviousness has not been established by the Examiner as required under 35 U.S.C. §103(a).

Dependent Claims 6 and 16 are further believed allowable over the references of record for the same reasons set forth above with respect to independent Claims 1 and 8. Dependent Claims 6 and 16 set forth additional novel elements of Appellant's system.

43

Therefore, Appellant submits that the rejection of dependent Claims 6 and 16 under 35 U.S.C. §103(a) is improper and should be reversed.

CONCLUSION

For the foregoing reasons, Appellant respectfully submits that the rejections of Claims 1-20 are erroneous as a matter of law and fact and respectfully request the Board to reverse the rejection.

Respectfully submitted,

(Reg. No. 55,819)

Aaron J. Morrow
Agent for Appellant
Patents+TMS
A Professional Corporation
2849 W. Armitage Ave.
Chicago, IL 60647

CERTIFICATE OF MAILING

I hereby certify that this **APPEAL BRIEF with CLAIMS APPENDIX CONTAINING CLAIMS 1-20, EVIDENCE APPENDIX CONTAINING EXHIBITS A, B, C, D, E and RELATED PROCEEDINGS APPENDIX, TRANSMITTAL (in duplicate), RETURN RECEIPT POSTCARD, CHECK for $250.00** are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, Alexandria, VA 22313-1450 on June 5, 2007.

Aaron J. Morrow (Reg. No. 55,819)

VIII. CLAIMS APPENDIX

Claim 1. A system for determining an availability and a location of an item offered for sale by a merchant in a multi-dealer retail establishment wherein the multi-dealer retail establishment is a structure defined by walls wherein the walls define an interior space and wherein the availability and the location of the item are determined only within the multi-dealer retail establishment and further wherein the multi-dealer retail establishment has a plurality of merchants wherein each of the plurality of merchants is associated with only one of a plurality of locations within the interior space of the multi-dealer retail establishment and each of the plurality of merchants offers a plurality of items that are a distinct group of items from any other merchant of the plurality of merchants, the system comprising:

a computer network;

a database associated with the computer network;

means for inputting merchant information into the database wherein the merchant information is associated with the location of each one of the plurality of merchants wherein the merchants are located only within the interior space of the multi-dealer retail establishment;

means for inputting item information in the database wherein the item information is associated with a description of the item and a price of the item wherein each one of the plurality of items

is only locatable within the interior space of the multi-dealer retail establishment; and

a computer terminal located ~~in~~ within the interior space of the multi-dealer retail establishment wherein the computer terminal connects to the computer network and enables access to the item information and the merchant information and further wherein the computer terminal is remote with respect to the database and determines the location of the item wherein the item is only locatable within the interior space of the multi-dealer retail establishment by searching the item information in the database wherein the item information is associated with the location of the merchant ~~in~~ within the interior space of the multi-dealer retail establishment.

Claim 2: The system of Claim 1 wherein the computer network is the internet.

Claim 3: The system of Claim 1 further comprising:

a remote server wherein the database is contained on the remote server; and

a website providing access to the database.

Claim 4: The system of Claim 1 further comprising:

means for modifying the merchant information in the database.

Claim 5: The system of Claim 1 further comprising:

a password associated with the merchant for accessing the merchant information in the database.

Claim 6: The system of Claim 1 further comprising:

an electronic map associated with the multi-dealer retail establishment wherein the location of the merchant associated with the item information is displayed on the electronic map.

Claim 7: The system of Claim 1 further comprising:

means for inputting an image associated with the item into the item information in the database; and

means for accessing the image associated with the item in the database from the computer terminal.

Claim 8: A method for locating and determining an availability and a location of an item offered for sale by a merchant in a multi-dealer retail establishment wherein the multi-dealer retail establishment is a building having walls defining an interior space wherein the location and the availability of the item are determined only from the items within the interior space of the multi-dealer retail establishment and wherein the merchant is part of a plurality of merchants within the multi-dealer retail establishment and further wherein the merchant offers a plurality of items that are a distinct group of items from any other merchant in the plurality of merchants and further wherein the merchant has a distinct location within the multi-dealer retail establishment, the method comprising the steps of:

providing a computer network;

providing a database connected to the computer network wherein the database stores merchant information associated with the merchant and further wherein the merchant information has the

location of the merchant within the multi-dealer retail establishment;

inputting a product list of the merchant into the merchant information in the database wherein the product list has item information associated with items offered for sale by the merchant wherein the items in the product list are determined only from the items available from the plurality of merchants within the interior space of the multi-dealer retail establishment;

providing a terminal in the multi-dealer retail establishment wherein the terminal access[es] the database for displaying the merchant information of the merchant in the database via the computer network wherein the terminal is only accessible at the multi-dealer retail establishment;

searching the product list in the merchant information based on the item information associated with the item; and

determining the location of the merchant in the multi-dealer retail establishment based on the merchant information associated with the item information in the product list wherein the terminal displays the location of the item in the multi-dealer retail establishment based on the location of the merchant wherein the merchant is only located within the interior space of the multi-dealer retail establishment.

Claim 9: The method of Claim 8 wherein the computer network is the internet.

Claim 10: The method of Claim 8 wherein the access to the database is wireless.

Claim 11: The method of Claim 8 further comprising the steps of:

    providing a remote server; and

    storing the database on the remote server.

Claim 12: The method of Claim 8 further comprising the step of:

    providing a second access to the database for modifying the merchant information in the database via the computer network.

Claim 13: The method of Claim 8 wherein the access is from a remote computer terminal with respect to the database.

Claim 14: The method of Claim 8 further comprising the step of:

    providing a password for accessing the merchant information in the database via the computer system.

Claim 15: The method of Claim 8 wherein the terminal accesses the database is via a computer website on the computer network wherein the computer website is remote with respect to the database.

Claim 16: The method of Claim 8 further comprising the step of:

    displaying the location of the merchant in the multi-dealer retail establishment on a map wherein the map is associated with the multi-dealer retail establishment.

Claim 17: The method of Claim 8 further comprising the step of:

    downloading an image into the item information of the item in the database via the computer network wherein the image is associated with the item.

Claim 18: The method of Claim 8 wherein the item information includes geographical information associated with the item for sale by the merchant.

Claim 19: The method of Claim 8 further comprising the steps of:

inputting user information into the database via the computer system wherein the user information is associated with the user; and

searching the product list in the merchant information based on the user information.

Claim 20: The method of Claim 8 further comprising the steps of:

inputting an inventory of the merchant into the database via the computer system wherein the inventory is associated with the product list of the merchant and further wherein the inventory includes the item for sale; and

modifying the inventory of the merchant via the computer system.

IX. EVIDENCE APPENDIX

EXHIBIT A: Final Rejection dated March 23, 2007

EXHIBIT B: *Chang et al.* (U.S. Patent Publication No. 2003/0110078)

EXHIBIT C: *Russell* (U.S. Patent Publication No. 2002/0083061)

EXHIBIT D: *Pugliese III et al.* (U.S. Patent Publication No. 2001/0044751)

EXHIBIT E: Crossman, Craig, "Look, Listen and Interact with Multimedia." *Austin American Statesman* March 21, 1994, Page D6.

EXHIBIT A

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,890	02/04/2004	Hobie Reber	HOB-P-04-001	3879

29013   7590   03/23/2007
PATENTS+TMS, P.C.
2849 W. ARMITAGE AVE.
CHICAGO, IL 60647

EXAMINER
ALLEN, WILLIAM J

ART UNIT	PAPER NUMBER
3625	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

PTOL-90A (Rev. 10/06)

	Application No.	Applicant(s)
Office Action Summary	10/771,890	REBER, HOBIE
	Examiner	Art Unit	
	William J. Allen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 January 2007*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

⠀⠀4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

⠀⠀Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

⠀⠀Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

⠀⠀a)☐ All b)☐ Some * c)☐ None of:

⠀⠀⠀1.☐ Certified copies of the priority documents have been received.

⠀⠀⠀2.☐ Certified copies of the priority documents have been received in Application No. _____.

⠀⠀⠀3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

⠀⠀* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
⠀⠀Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
⠀⠀Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Prosecution History Summary

Claims 1-20 are pending and rejected as set forth below.

Response to Arguments

Applicant's arguments with respect to claims 1-20 have been considered but are moot in

view of the new ground(s) of rejection. Applicant's amendment necessitated the new grounds of

rejection.

In response to applicant's arguments, the recitation "wherein the multi-dealer retails

establishment is a structure...of the plurality of merchants" has not been given patentable weight

because the recitation occurs in the preamble. A preamble is generally not accorded any

patentable weight where it merely recites the purpose of a process or the intended use of a

structure, and where the body of the claim does not depend on the preamble for completeness

but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*,

535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478,

481 (CCPA 1951).

Additionally, in response to applicant's argument regarding nonanalogous art and failure

to show proper suggestion to combine references, it has been held that a prior art reference must

either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the

particular problem with which the applicant was concerned, in order to be relied upon as a basis

for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed.

Cir. 1992). Furthermore, The examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where

there is some teaching, suggestion, or motivation to do so found either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re*

Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)and *In re Jones*, 958 F.2d 347, 21

USPQ2d 1941 (Fed. Cir. 1992). In this case, the cited references clearly constitute analogous art

and provide adequate motivation to use in combination with the base references.

Claim Rejections - 35 USC § 103

1.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

2.   **Claims 1-3, 8-11, 13, 15, and 18 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Chang et al. (US 20030110078) in view of Russell (US 20020083061).

Regarding claim 1, Chang teaches a system for locating and determining an availability

and location of an item offered for sale in a shopping mall comprising:

providing a computer network (see at least: Fig. 1);

a database associated with the network (see at least: 0008 lines 2-6, 0010 lines 4-7, 0023

lines 20-26, Fig. 1);

wherein the merchant information is associated with the location of each one of the

plurality of merchants wherein the merchants are located only within the interior space of the

multi dealer retail establishment (see at least: 0008 lines 2-6, 0010 lines 4-7, 0023 lines 20-26);

wherein the item information is associated with a description of the item and a price of

the item wherein each one of the plurality of items is only locatable within the interior space of

the multi dealer retail establishment (see at least: abstract lines 10-14, 0008 lines 2-6, 0010 lines

4-7, 0023 lines 20-26);

a computer terminal located in the multi-dealer retail establishment (see at least: abstract

lines 10-14, Fig. 1(#14), 0025 lines 5-10) *and*

>>> *wherein the computer terminal connects the computer to the computer network*
>>>
>>> (see at least: Fig. 1(#14), 0020, 0025 lines 5-10) *and*
>>>
>>> *enables access to item information and merchant information* (see at least:
>>>
>>> abstract lines 10-14, Fig. 1(#14), 0023 lines 24-26, 0025 lines 5-10) *and further wherein*
>>>
>>> *the computer terminal is remote with respect to the database* (see at least: Fig.
>>>
>>> 1(#14), 0020, 0025 lines 5-10) *and*
>>>
>>> *determines the location of the item in the multi-dealer retail establishment by*
>>>
>>> *searching the item information in the database wherein the item information is associated*
>>>
>>> *with the location of the merchant in the multi-dealer retail establishment* (see at least:
>>>
>>> abstract lines 10-14, 0010 lines 4-7, 0019 lines 13-16, 0023 lines 24-26, 0025 lines 5-10,
>>>
>>> claim 26)

Chang teaches all of the above including providing a database with such information as stock of

the product, price, availability, and the physical location of the product in a particular store (i.e.

merchant) in a shopping center, mall, or similar venue (see at least: abstract lines 10-14, 0023

lines 24-26, 0025 lines 1-3 and 6-10). Though not explicitly stated, the step of and means for

inputting the merchant information and the product information is implicitly implied by Chang

as some means and step of inputting such information must be performed in order for database

31 to contain such information. Chang merely lacks an explicit teaching of a *means for inputting*

merchant information and a *means for inputting item information.*

In the same field of endeavor, Russell teaches a method for providing a searchable electronic database for use in tradeshows (see at least: abstract lines 1-2). As noted by Russell, a typical problem with such events is the difficulty for an attendee to find a particular vendor when in a large venue (see at least 0003 lines 10-12). To remedy such deficiencies, Russell provides a dedicated computer system or kiosk in the venue operable with searchable reader software to provide a user with the ability to search and have presented information regarding vendors at the trade show such as vendor products, catalogue information, vendor location, etc. (see at least: 00108-10, 0007 lines 14-17, 0009 lines 5-8 and 22-26, 0011 all). More specifically, Russell teaches a vendor uploading via a secure web page information such as the vendor's name, web site, products offered, location, etc. (see at least: 0007 all, 0009 all). By explicitly teaching the inputting of the vendor's products (i.e. *a product list*), Russell teaches the implicitly implied *means for inputting merchant information and item information*.

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Chang to have included *means for inputting merchant information and item information* as taught by Russell in order to provide a system that allows vendors to upload information into an electronic database compatible with searchable reader software thereby facilitating efficient search for and generation of desired information (such as product or vendor location) for a user in a multi dealer establishment (see at least: Russell, abstract, 0006, 0008).

Regarding claim 2, Chang in view Russell teaches *wherein the computer network is the internet* (see at least: Chang, 0023).

Regarding claim 3, Chang teaches all of the above and further teaches maintaining a database, remote from the kiosk, for use by a customer (see at least: Fig. 1). Chang, however, does not explicitly teach a *remote server* for maintaining the database and *a website for access to the database*. Russell teaches *remote server* for maintaining the database and *a website for access to the database* (see at least: abstract lines 5-9 (note: the database may be "accessed on a wireless network"), 0007 lines 7-11 and 14-17, 0009 lines 4-8, 0012 lines 1-10). It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Chang to have included *a website for access to the database* as taught by Russell in order to allow vendors to upload information into an electronic database compatible with searchable reader software thereby facilitating efficient search for and generation of desired information for a user in a multi dealer establishment (see at least: Russell, abstract, 0006, 0008).

Regarding claim 8, Chang teaches a method for locating and determining an availability and location of an item offered for sale in a shopping mall comprising:

providing a computer network (see at least: Fig. 1);

providing a database connected to the computer network wherein the database stores merchant information associated with the merchant and further wherein the merchant information has the location of the merchant within the multi-dealer retail establishment (see at least: 0008 lines 2-8, 0010 lines 4-7, 0023 lines 20-26, Fig. 1); Note: "location of a product in a particular store";

wherein the product list has item information associated with items offered for sale by the merchant wherein the items in the product list are determined only from the items available from the plurality of merchants within the interior space of the multi-dealer retail establishment (see at least: abstract lines 10-14, 0008 lines 2-6, 0010 lines 4-7, 0023 lines 20-26);

providing a terminal in the multi-dealer retail establishment wherein the terminal access the database for displaying the merchant information of the merchant in the database via a computer network wherein the terminal is only accessible at the multi-dealer retail establishment (see at least: abstract lines 10-14, Fig. 1(#14), 0025 lines 5-10);

searching the product list in the merchant information based on item information associated with the item (see at least: 0007 lines 5-8, 0011 lines 9-13, 0019 lines 12-16, 0023 lines 4-19, 0023-0025 all);

determining the location of the merchant in the multi-dealer retail establishment based on the merchant information wherein the terminal displays the location of the item in the multi-retail establishment based on the location of the merchant wherein the merchant is only located

within the interior space of the multi-dealer retail-establishment (see at least: abstract lines 12-

14, 0010 lines 4-7, 0023 lines 24-26, 0025 lines 6-10, claim 26).

Chang teaches all of the above including providing a database with such information as stock of

the product, price, and the physical location of the product in a particular store(i.e. *merchant*) in a

shopping center, mall, or similar venue (see at least: abstract lines 10-14, 0023 lines 24-26, 0025

lines 1-3 and 6-10). Though not explicitly stated, there is the step of inputting the product

information that is implicitly implied by Chang but which must be performed in order for

database 31 to contain such information. Though such feature is seemingly inherent, Chang lacks

an explicit teaching of *inputting a product list of the merchant into the merchant information in*

the database. .

In the same field of endeavor, Russell teaches a method for providing a searchable electronic

database for use in tradeshows (see at least: abstract lines 1-2). As noted by Russell, a typical

problem with such events is the difficulty for an attendee to find a particular vendor when in a

large venue (see at least 0003 lines 10-12). To remedy such deficiencies, Russell provides a

dedicated computer system or kiosk in the venue operable with searchable reader software to

provide a user with the ability to search and have presented information regarding vendors at the

trade show such as vendor products, catalogue information, vendor location, etc. (see at least:

00108-10, 0007 lines 14-17, 0009 lines 5-8 and 22-26, 0011 all). More specifically, Russell

teaches a vendor uploading via a secure web page information such as the vendor's name, web

site, products offered, etc. (see at least: 0007, 0009). By explicitly teaching the inputting of the

vendor's products (i.e. *a product list*), Russell teaches the implicitly implied step of *inputting a product list of the merchant into the merchant information in the database.*

It would have been obvious to one of ordinary skill in the art at the time of invention to have modified the invention of Chang to have included *inputting a product list of the merchant into the merchant information in the database* as taught by Russell in order to provide a system that allows vendors to upload information into an electronic database compatible with searchable reader software thereby facilitating efficient search for and generation of desired information (such as product or vendor location) for a user in a multi dealer establishment (see at least: Russell, abstract, 0006, 0008).

Regarding claims 9-11, these claims closely parallel claims 2-3 and are thereby rejected for at least the same rationale.

Regarding claim 13, Chang in view of Russell teaches *wherein the first access is from a remote computer terminal with respect to the database* (see at least: Chang, Fig. 1; Russell, abstract lines 5-9, 0007 lines 7-11 and 14-17, 0009 lines 4-8, 0012 lines 1-10).

Regarding claim 15, Chang in view of Russell teaches *a computer website providing access to the database wherein the computer website is remote with respect to the database* (see at least: Russell, abstract, 0007, 0009, 0012). The Examiner notes that the user may access the database/web page through a wireless network using a computer system supplied at the tradeshow (see at least: abstract, 0012).

Regarding claim 18, Chang in view of Russell teaches *wherein the item information includes geographical information associated with the item for sale by the merchant* (see at least: Chang, abstract lines 10-14, 0023 lines 24-26, 0025 lines 1-3 and 6-10). The Examiner notes that the location of a product "in a particular store" constitutes geographic information.

3.   Claims 4-5, 7, 12, 14, 17, and 19-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Chang in view of Russell as applied to claims 1 and 8 above, and further

in view of Pugliese III et al. (US 20010044751).

        Regarding claim 4, Chang in view of Russell teach all of the above as noted and further

teach a means for inputting merchant information (see at least: Chang, abstract, 0023, Fig. 1;

Russell, abstract, 0002, 0007, 0009, 0014, claim 1 and 7). It). Chang in view of Russell,

however, does not expressly teach *a means for modifying the merchant information.* In the same

field of endeavor, Pugliese teaches a mall kiosk available to shoppers (see at least: abstract).

Pugliese further teaches a merchant or "merchant administrator" with the ability to logon and

update (i.e. modify) the merchant information in the database, and thereby teaches *means for*

modifying the merchant information (see at least: abstract, 0275, 0277, 0334-0336, 0340-0341,

Fig. 21). It would have been obvious to one of ordinary skill in the art at the time of invention to

have modified the invention of Chang in view of Russell to have provided *a means for modifying*

the merchant information as taught by Pugliese in order to provide a merchant management

function that allows a merchant administrator to logon and easily update the merchant

information for a specific merchant location (see at least: Pugliese, 0275, 0336).

Regarding claim 5 and 14, Chang in view of Russell teaches all of the above as noted

and further teaches a secure web page available for vendors (i.e. merchants) to upload

information to a database (see at least: Russell, abstract, 0007, 0009). Chang in view of Russell,

however, does not expressly teach wherein *a password associated with the merchant for*

accessing the merchant information in the database. Pugliese teaches a registered merchant or

merchant administrator logging into the ShopLive system and updating merchant information

(see at least: abstract, 0275, 0277, 0334-0336, 0340-0341, Fig. 21). Pugliese further teaches

wherein the merchant may receive their password via email when using the lost password request

function (see at least: 0332, Fig. 20 #100 and #106). It would have been obvious to one of

ordinary skill in the art at the time of invention to have modified the invention of Chang in view

of Russell to have included *a password associated with the merchant for accessing the merchant*

information in the database as taught by Pugliese in order to provide a merchant management

function that allows a merchant administrator to logon and easily update the merchant

information for a specific merchant location (see at least: Pugliese, 0275, 0336).

Regarding claim 7, Chang in view of Russell teaches all of the above and further teaches

uploading item information, without limitation, such as product type, model number, price, etc.

(see at least: Chang, 0019). Chang in view of Russell, however, does not expressly teach *a means*

for inputting an image associated with the item in the item information in database and a means

for accessing the image associated with the item in the database from the computer terminal.

Pugliese teaches *a means for inputting an image associated with the item in the item information*

in database and a means for accessing the image associated with the item in the database from

the computer terminal (see at least: 0271-0272, 0279, 0368, Fig. 15, claim 14). It would have

been obvious to one of ordinary skill in the art at the time of invention to have modified the

invention of Chang in view of Russell to have included *a means for inputting an image*

associated with the item in the item information in database and a means for accessing the image

associated with the item in the database from the computer terminal as taught by Pugliese in

order to provide a system that supports content (such as images), thereby displaying to the

shopper different views in order to allow them to better assess a product for purchase (see at

least: Pugliese, 0010, 0125).

Regarding claim 12, Chang in view of Russell teach all of the above as noted and further

teach a means for inputting merchant information (see at least: Chang, abstract, 0023, Fig. 1;

Russell, abstract, 0002, 0007, 0009, 0014, claim 1 and 7). It). Chang in view of Russell,

however, does not expressly teach *providing a second access to the database for modifying the*

merchant information via the computer network. Pugliese teaches a merchant or "merchant

administrator" with the ability to logon and update (i.e. modify) the merchant information in the

database, and thereby teaches *providing a second access to the database for modifying the*

merchant information via the computer network (see at least: abstract, 0275, 0277, 0334-0336,

0340-0341, Fig. 21). It would have been obvious to one of ordinary skill in the art at the time of

invention to have modified the invention of Chang in view of Russell to have provided *providing*

a second access to the database for modifying the merchant information via the computer

network as taught by Pugliese in order to provide a merchant management function that allows a

merchant administrator to logon and easily update the merchant information for a specific

merchant location (see at least: Pugliese, 0275, 0336).

Regarding claim 17, Chang in view of Russell teaches all of the above and further

teaches uploading item information, without limitation, such as product type, model number,

price, etc. (see at least: Chang, 0019). Chang in view of Russell, however, does not expressly

teach *downloading an image into the item information of the item in the database via the*

computer network wherein the image is associated with the item. Pugliese teaches *downloading*

an image into the item information of the item in the database via the computer network wherein

the image is associated with the item (see at least: 0271-0272, 0279, 0368, Fig. 15). It would

have been obvious to one of ordinary skill in the art at the time of invention to have modified the

invention of Chang in view of Russell to have included *downloading an image into the item*

information of the item in the database via the computer network wherein the image is

associated with the item as taught by Pugliese in order to provide a system that supports content

(such as images), thereby displaying to the shopper different views in order to allow them to

better assess a product for purchase (see at least: Pugliese, 0010, 0125).

Regarding claim 19, Chang in view of Russell teaches all of the above and further

teaches a user inputting information and performing a search based on the information (see at

least: Chang, 0007, 0011, 0023; Russell, abstract, 0008). Chang in view of Russell, however,

does not expressly show *inputting user information into the database via the computer system*

wherein the information is associated with the user and *searching the product list in the*

merchant information based on the user information. Pugliese teaches *inputting user*

information into the database via the computer system wherein the information is associated

with the user and *searching the product list in the merchant information based on the user*

information (see at least: 0013, 0117, 0143, 0177-0179, 0206). It would have been obvious to

one of ordinary skill in the art at the time of invention to have modified the invention of Chang

in view of Russell to have included inputting user information *into the database via the computer*

system wherein the information is associated with the user and *searching the product list in the*

merchant information based on the user information as taught by Pugliese in order to provide a

system that allows access to shopper profile information interactively during a shopping session

to determine shopper preferences and allow merchants to serve the shopper better (see at least:

Pugliese, 0117).

Regarding claim 20, Chang in view of Russell teaches all of the above and further

teaches accessing product availability information and product stock information (see at least:

Chang, abstract lines 10-14, 0023 lines 24-26, 0025 lines 1-3 and 6-10). Chang in view of

Russell, however, does not expressly show *inputting inventory of the merchant into the database*

via the computer system wherein the inventory is associated with the product list of the merchant

and further wherein the inventory includes the item for sale and modifying the inventory of the

merchant via the computer system. Pugliese teaches *inputting inventory of the merchant into the*

database via the computer system wherein the inventory is associated with the product list of the

merchant and further wherein the inventory includes the item for sale and modifying the

inventory of the merchant via the computer system (see at least: 0099, 0126, 0140). It would have

been obvious to one of ordinary skill in the art at the time of invention to have modified the

invention of Chang in view of Russell to have included *inputting inventory of the merchant into*

the database via the computer system wherein the inventory is associated with the product list of

the merchant and further wherein the inventory includes the item for sale and modifying the

inventory of the merchant via the computer system as taught by Pugliese in order to provide a

system that supports shoppers by checking availability of items for sale at a store location and

helps the shopper complete the purchase as in a normal transaction (see at least: Pugliese,

abstract).

4.   Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Chang in vies of Russell as applied to claims 1 and 8, and in further view of 892u.

        Regarding claim 6 and 16, Chang in view of Russell teaches locating an item in a multi

retailer establishment (see at least: Chang, abstract; Russell, abstract). Russell further teaches

how providing a map can be advantageous for shoppers to locate vendors and items (see at least:

0004). Chang in view of Russell, however, does not expressly teach *an electronic map*

associated with the multi dealer retail establishment wherein the location of the merchant

associated with the item information is displayed on the electronic map. 892u teaches a mall

kiosk equipped with a touch screen monitor. 892u further teaches a window on the monitor of

the mall kiosk that provides a sales assistant for providing the location of a desired product and

an animated (i.e. electronic map) on the touch screen showing current location and how to get to

the store containing desired product (see at least: Paragraph 1). It would have been obvious to

one of ordinary skill in the art to have modified the invention of Chang in view of Russell to

have included *displaying an electronic map wherein the location of the merchant associated with*

the item information is displayed on the electronic map as taught by 892u in order to provide an

easy, interactive means for displaying an animated map directing a shopper to a particular store,

thereby assisting the shopper in locating the product quickly (see at least: 892u, Page 1).

Conclusion

5.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to William J. Allen whose telephone number is (571) 272-1443.

The examiner can normally be reached on 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jeff A. Smith can be reached on (571) 272-6763. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent
Application Information Retrieval (PAIR) system. Status information for published applications
may be obtained from either Private PAIR or Public PAIR. Status information for unpublished
applications is available through Private PAIR only. For more information about the PAIR
system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR
system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would
like assistance from a USPTO Customer Service Representative or access to the automated
information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.
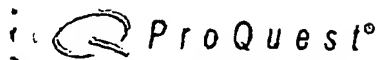
William J. Allen
Patent Examiner
March 19, 2007

MATTHEW S. GART
PRIMARY EXAMINER
TECHNOLOGY CENTER 3600

EXHIBIT B

EXHIBIT D

EXHIBIT E

ProQuest®

‹‹ Back to Document View

Look, listen and interact with multimedia; [FINAL Edition]

Craig Crossman. Austin American Statesman. Austin, Tex.: Mar 21, 1994. pg. D.6

Author(s):	Craig Crossman
Section:	*BUSINESS*
Publication title:	Austin American Statesman. Austin, Tex.: Mar 21, 1994. pg. D.6
Source type:	Newspaper
ProQuest document ID:	83051038
Text Word Count	400
Document URL:	http://proquest.umi.com/pqdweb?did=83051038&sid=2&Fmt=3&clie ntId=19649&RQT=309&VName=PQD

Abstract (Document Summary)

This interaction is all part of the multimedia concept. Games and other forms of computer entertainment rely heavily on multimedia to make the experience seem more lifelike.

Drawing from several of the most popular multimedia development programs, such as Action! and Compell, it shows how multimedia can be used in a variety of ways, such as House Finder and Garden Center.

Using multimedia to teach multimedia is a natural. With Professor Multimedia offering lessons at your own pace, you'll come away with a better understanding of this technology and all the wonderful things it offers.

Full Text (400 words)

There are many programs that claim they use multimedia, but eachone is different. What exactly is multimedia, and how can you useit?

The generally accepted definition: a program that's able to use different media to convey messages and ideas.

In this case, the term "media" is defined as a single method of revealing information. For example, on the screen you see visual media; from the speakers you hear sound media.

Each can be broken down further. For example, visual media can be displayed as full-motion video, drawn animation or still images. Examples of sound media include spoken words, music or sound effects, such as birds chirping or a car engine roaring.

Combining some or all of these to convey an idea - be it a sales presentation or an educational lesson - is at the heart of multimedia.

Another element is interaction. You probably have seen one of those touch screens in a kiosk at a mall. Touching the screen might start a small video window in which a salesperson points out where you can buy selected products, while another portion of the screen displays an animated map showing your location and how to get to the store. It may even print out a discount coupon to encourage a sale.

This interaction is all part of the multimedia concept. Games and other forms of computer entertainment rely heavily on multimedia to make the experience seem more lifelike.

If you would like to learn more and experience multimedia on your computer, an interesting product called Professor Multimedia, from Individual Software, offers a wide variety of multimedia presentations.

Drawing from several of the most popular multimedia development programs, such as Action! and Compell, it shows how multimedia can be used in a variety of ways, such as House Finder and Garden Center.

In the same way that you see movie trailers in the theaters, Professor offers samplings from several popular multimedia programs such as Microsoft's Dinosaurs; Broderbund's Arthur's Teacher Trouble, an educational program for young children;

and The Total Heart from the Mayo Clinic.

Using multimedia to teach multimedia is a natural. With Professor Multimedia offering lessons at your own pace, you'll come away with a better understanding of this technology and all the wonderful things it offers.

Available only for IBM-compatible computers running Windows, Professor Multimedia sells for $79.95.

For more information, contact Individual Software at (800) 331-3313 or (510) 734-6767.

X. RELATED PROCEEDINGS APPENDIX

NONE